



July 2, 2018

Via Electronic Filing

Hon. Laura Taylor Swain
United States District Court
for the Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Centauro Liquid Opportunities Master Fund, L.P. v. Bazzoni, et al.*, No. 15-cv-9003 (LTS) (SN)

Dear Judge Swain:

I represent plaintiff Centauro Liquid Opportunities Master Fund, L.P. (“Centauro”), and I write with the consent of the parties to respond jointly to the Court’s June 22, 2018 Order (ECF No. 202). The parties have not been able to reach a consensus on whether there are any issues of material fact relevant to Centauro’s motion to amend the attachment order that must be resolved in an evidentiary proceeding. Below are the parties’ respective positions.

Plaintiff Centauro

Given discovery developments since Centauro’s motion to amend the attachment order was initially briefed, Centauro believes that it would be useful for each party to provide a short (12-pages maximum) supplemental brief discussing any additional evidence relevant to the motion that has been adduced. The supplemental briefs and any exhibits thereto would be filed simultaneously (*i.e.*, the parties would file on the same day, rather than responding to each other’s briefs). Centauro also requests oral argument on the motion, and proposes no more than 1 hour (30 minutes for Centauro; 30 minutes for Defendants). If, after receiving the briefing, the Court believes that a full evidentiary hearing is necessary (rather than simply oral argument), Centauro proposes that each side get one hour to present any witnesses and/or evidence. However, Centauro believes that any evidentiary hearing will be of limited utility, given that two of the key witnesses with respect to Defendant Elemento’s alter ego status (Alessandro Bazzoni and Richard Rothenberg) have invoked the Fifth Amendment privilege, as discussed in Centauro’s briefing. *See* ECF No. 151, at 4.

Defendants Alessandro Bazzoni, CT Energia Ltd., and CT Energia Ltd. d/b/a Elemento Ltd. (“Elemento Ltd.”)

Defendants Elemento Ltd., Alessandro Bazzoni, and CT Energia, Ltd. believe that an evidentiary hearing is unnecessary to decide Plaintiff’s motion to amend the order of attachment: to the extent there are any unresolved issues of fact, they are not necessary to the determination of that motion.



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We note Plaintiff's wish to submit additional evidence and argument through written submissions and possibly live testimony. Given Plaintiff's burden on its motion—to show a probability of success on the merits of its underlying claims—Plaintiff's proposal is certain largely to duplicate the parties' likely submissions for contemplated motions / cross-motions for summary judgment and at trial. Plaintiff's proposal, therefore, will result in unnecessary but avoidable use of the parties' and the Court's resources. Consequently, should the Court determine that Plaintiff's pending motion cannot be decided on the current record, Defendants propose that the Court allow Plaintiff to supplement its attachment motion in conjunction with its summary judgment papers. Defendants will then respond as appropriate in their opposition papers.

Respectfully submitted,

/s/ Byron Pacheco
Byron Pacheco
Boies Schiller Flexner LLP
Counsel for Plaintiff Centauro

Copies to: Counsel of Record (via ECF)
